

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7681 of 2005

Between:

R. Kotamma, W/o. Late R. Mataiah,
C/o. Deccan Cements Limited, Sri M. Narashima, Bhavanipuram, Jan Padad (Pot) Naredicherla (M), Nalgonda District.

..... PETITIONER

AND

- 1 The Assistant Provident Fund Commissioner (Pension_) Regional Office, Barkatpura, Hyderabad. A.P.
- 2 M/s. Deccan Cements Limited, Bhavanipuram, Nereducharla, Nalgonda District, rep. by its Chief Manager Personnel.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue Writ order or direction or writ more particular one in the nature of Writ of Mandamus declaring the action of the respondents in treating the petitioners husband's date of birth as 1.8.48 and date of superannuation as 1.8.2000 as the same is illegal, arbitrary and set aside the proceedings No. AP/14137/144/MPPO-29309/235, dt. 15.9.2004 issued by the 1st respondent and consequently direct the respondents to treat the petitioner's date of birth as 1.8.1950 and date of death as 2.4.2003 and accordingly to calculate the petitioners pension under the Employees Pension Scheme 1995.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent No.1: MR.R.N.REDDY (SC FOR EMPLOY'S PF ORG.)

The Court made the following :

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ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 1st respondent in treating the date of birth of the petitioner's husband as 1.8.1942 and date of superannuation as 3.7.2000 as illegal and arbitrary and to set aside the proceedings, dated 15.9.2004 issued by the 1st respondent and consequential direction to the respondents to treat the date of birth of the petitioner's husband as 1.8.1950 and his date of death as 2.4.2003 and accordingly to calculate the petitioner's pension under the Employees Pension Scheme, 1995.

Heard the learned counsel for the petitioner and the learned standing counsel for the 1st respondent and perused the material on record.

The contention of the learned counsel for the petitioner is that the date of birth of the petitioner's husband was entered into the records of the 2nd respondent-Deccan Cements Limited as 1.8.1950, but the respondents did not take the same into consideration in fixing the family pension and therefore, he seeks appropriate directions to the respondents.

On the other hand, as per the documents submitted by the petitioner, the date of birth of her husband at the time of his joining was taken as

1.8.1942, and this Court cannot decide the disputed question of fact.

As per the proceedings of the 1st respondent, dated 15.9.2004, at the time when the husband of the petitioner joined as a member of the Employees Provident Fund Scheme, 1995, his date of birth was noted as 1.8.1942. Therefore, taking that date into consideration, the date of superannuation was 31.7.2000, but the learned counsel for the petitioner placed reliance on the document said to have been given by the 2nd respondent-Deccan Cements Limited whereunder the date of birth of the petitioner's husband is 1.8.1950 in service records, which is a disputed question of fact and it has to be decided by the competent forum and certainly not by this Court.

In the result, the writ petition is devoid of merits and it shall accordingly stand dismissed. However, all the remedies as may be available under law are left open to the petitioner. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

7th April, 2005

bcj

To

1 The Assistant Provident Fund Commissioner (Pension) Regional Office,
Barkatpura, Hyderabad. A.P.

2 The Chief Manager (Personnel), M/s. Deccan Cements Limited, Bhavanipuram,
Nereducharla, Nalgonda District.

3. Two C.D. copies